

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

OPERATING ENGINEERS HEALTH  
AND WELFARE TRUST FUND, et al.,

Plaintiffs,

v.

CEDAR CREEK CORPORATION DBA  
NOR CAL MOBILE ROCK CRUSHING,  
et al.,

Defendants.

Case No. [24-cv-00547-PHK](#)

**ORDER TO SHOW CAUSE RE:  
SERVICE OF DEFENDANTS NO  
LATER THAN JUNE 7, 2024**

Show Cause Hearing SET for June 13, 2024  
at 10:30 a.m. in Courtroom F, 15<sup>th</sup> Floor,  
San Francisco Courthouse

Now before the Court is the issue of whether or not Plaintiffs have properly effected service of process on the named Defendants. Here, Plaintiffs commenced this lawsuit on January 29, 2024, naming Cedar Creek Corporation d/b/a Nor Cal Mobile Rock Crushing and Katie Grove as Defendants. [Dkt. 1].

Federal Rule of Civil Procedure 4(m) sets forth the following requirements for service:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

More than ninety days have passed since Plaintiffs' Complaint was filed, and the docket does not reflect that service has been perfected as to either Defendant. Nor have Plaintiffs requested any extension of time to effectuate service on any Defendants. Plaintiffs' failure to effectuate proper service on Defendants within the time limit prescribed by Rule 4(m) is grounds

1 for dismissal of this case without prejudice, in the absence of justification for the failure.

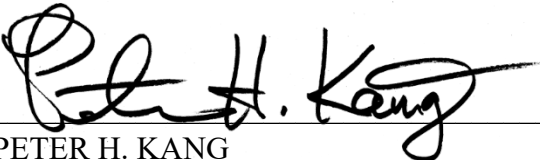
2 Accordingly, the Court **HEREBY ORDERS** Plaintiffs to show cause why this case should  
3 not be dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 4(m), for failure  
4 to effectuate proper service. Plaintiffs **SHALL** file a Statement explaining whether and how  
5 Plaintiffs complied with Federal Rule of Civil Procedure 4(m), and why this action should not be  
6 dismissed without prejudice, by no later than **June 7, 2024**.

7 The Court further **ORDERS** Plaintiffs and their lead trial counsel to appear **IN PERSON**  
8 at a hearing regarding this Order to Show Cause on **June 13, 2024 at 10:30 a.m.** at the San  
9 Francisco courthouse, 15th Floor, Courtroom F.

10 If Plaintiffs fail to file the required Statement by June 7, 2024 showing good cause, or if  
11 Plaintiffs and their lead trial counsel fail to appear in person at the June 13, 2024 Show Cause  
12 Hearing, the Court will recommend, without further notice, the dismissal of this action without  
13 prejudice.

14  
15 **IT IS SO ORDERED.**

16 Dated: May 10, 2024

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PETER H. KANG  
United States Magistrate Judge